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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 **Willie D. JOHNSON,**

12 Petitioner,

13 v.
14

15 **Vincent CULLEN, Acting Warden,**

16 Respondent.
17

Case No. 3-98-cv-4043-SI

DEATH-PENALTY CASE

[PROPOSED] ORDER RE DISCOVERY

18 Good cause appearing therefor,

19 By **March 7, 2011**, Petitioner shall provide Respondent with a report from each expert
20 Petitioner intends to call as a witness at the evidentiary hearing in this matter. All expert reports
21 shall comply with Fed. R. Civ. P. 26(a)(2)(B). By the same date, Petitioner shall provide to
22 Respondent all material, including raw test data, notes, and tape or audio recordings of interviews
23 or tests, that such proposed experts have reviewed or relied upon in reaching their respective
24 opinions and preparing their reports. If any such material has already been exchanged (e.g., trial
25 counsel's files or the transcript of trial), Petitioner may identify such material in writing to
26 Respondent in lieu of providing redundant material. As to Petitioner's proposed expert Michael
27 Burt only, the report and underlying materials described above shall be provided to Respondent
28 by **March 15, 2011**. To the extent any of the above materials in the possession of Petitioner's

1 mental health experts are not, according to professional guidelines, to be disclosed to someone
 2 who is not a licensed mental health professional, all such materials are to be provided, by **March**
 3 **7, 2011**, directly to Respondent's mental health expert Daniel A. Martel, Ph.D. at Forensic
 4 Neuroscience Consultants, Inc., 2906 Lafayette, Newport Beach, California 92663.

5 By **March 7, 2011**, Respondent shall provide to Petitioner in writing a detailed list of
 6 evidentiary objections to each declaration of Petitioner's nonexpert "social history" witnesses, not
 7 to include trial counsel or Petitioner's jurors. The parties shall meet and confer concerning
 8 Respondent's objections and attempt to reach a joint stipulation concerning whether and to what
 9 extent each declaration will be admissible in lieu of live testimony and/or cross-examination.
 10 Any such stipulation shall be reached by **March 14, 2011**, after which time Respondent may
 11 request this Court's permission to file motion in limine concerning the admissibility of those
 12 declarations over which the parties are unable to reach a joint stipulation.

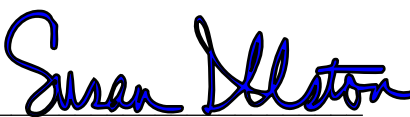
13 By **April 29, 2011**, Petitioner shall identify in writing to Respondent all nonexpert witness
 14 Petitioner intends to produce live at the evidentiary hearing.

15 By **April 29, 2011**, Respondent shall complete its depositions of Petitioner's proposed
 16 expert witnesses. If one or both parties are unable to meet this deadline, the parties shall attempt
 17 to reach a joint stipulation modifying the date. If the parties are unable to reach such an
 18 agreement, the party seeking to modify the deadline shall seek relief with this Court by written
 19 motion.

20 By **May 31, 2011**, Respondent shall complete its depositions of Petitioner's nonexpert
 21 witnesses, including trial counsel and Petitioner Willie D. Johnson. If one or both parties are
 22 unable to meet this deadline, the parties shall attempt to reach a joint stipulation modifying the
 23 date. If the parties are unable to reach such an agreement, the party seeking to modify the
 24 deadline shall seek relief with this Court by written motion.

25 **IT IS SO ORDERED.**

26
 27 Dated: 1/28/11

28

 SUSAN ILLSTON
 United States District Judge

CERTIFICATE OF SERVICE

Case Name: **Johnson v. Cullen, Acting
Warden of California State
Prison at San Quentin**

No. **C 98-4043 SI**

I hereby certify that on January 28, 2011, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

JOINT UPDATED STATUS REPORT RE STATUS OF DISCOVERY AND PREPARATIONS FOR EVIDENTIARY HEARING

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. On January 28, 2011, I have mailed the foregoing document(s) by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days to the following non-CM/ECF participants:

California Appellate Project
Federal Court Docketing
101 Second Street
Suite 600
San Francisco, CA 94105

Michael G. Millman
Executive Director
California Appellate Project (SF)
101 Second Street, Suite 600
San Francisco, CA 94105

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on January 28, 2011, at San Francisco, California.

M. Argarin
Declarant

/s/ M. Argarin
Signature